

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case Number 08-20469-BC
Honorable Thomas L. Ludington

ROGERICK DANDRE WILLIAMS,

Defendant.

_____ /

**ORDER DENYING DEFENDANT’S “MOTION TO SUPPRESS MOTION FOR
RECONSIDERATION FOR ORDER DENYING DEFENDANT’S MOTION TO
SUPPRESS BASED UPON NEW SUPREME COURT AUTHORITY” AND
DEFENDANT’S “MOTION TO SUPPRESS”**

On September 26, 2008, a single count indictment [Dkt. # 3] was filed against Defendant Rogerick Dandre Williams for a violation of 18 U.S.C. § 922(g), felon in possession of a firearm. Subsequent to a hearing, on March 26, 2009, the Court denied Defendant’s motion to suppress evidence found during a search of his vehicle. *See* [Dkt. # 14, 23]. On April 1, 2009, Defendant entered a guilty plea; his sentencing hearing is scheduled for July 30, 2009. Now before the Court is Defendant’s motion for reconsideration of his motion to suppress [Dkt. # 29], based on *Arizona v. Gant*, - - - S. Ct. - - - , 2009 WL 1045962 (U.S. Apr. 21, 2009). On May 19, Defendant filed a revised version of his motion [Dkt. # 31], which does not differ in basic substance from the original.

On May 29, 2009, the government filed a response [Dkt. # 32]. The government contends that Defendant’s guilty plea precludes reconsideration of his motion to suppress because a guilty plea removes the issue of factual guilt, citing *Menna v. New York*, 423 U.S. 61, 62-63 n.2 (1975). The government suggests that Defendant’s proper recourse is to file a motion to withdraw his plea

pursuant to Rule 11(d)(2)(B) of the Federal Rules of Criminal Procedure, which allows a defendant to withdraw a guilty plea prior to sentencing if “the defendant can show a fair and just reason for requesting the withdrawal.” The government concedes that the impact of *Arizona v. Gant* provides a fair and just reason to allow Defendant to withdraw his plea and indicates that it would not oppose a properly filed motion by Defendant. The government is correct and the Defendant’s motions to reconsider his motion to suppress will be denied.

Accordingly, it is **ORDERED** that Defendant’s “motion to suppress motion for reconsideration for order denying Defendant’s motion to suppress based upon new Supreme Court Authority” [Dkt # 29] and Defendant’s “motion to suppress” [Dkt. # 31] are **DENIED**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: June 5, 2009

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on June 5, 2009.

s/Tracy A. Jacobs
TRACY A. JACOBS